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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/693,096	10/20/2000	Nelson Phero	1862-3	7817
26496 7590 07/01/2008 GREENBERG & LIEBERMAN, LLC 2141 WISCONSIN AVE, N.W. SUITE C-2 WASHINGTON, DC 20007				
EXAMINER				
TRUONG, THANH K				
ART UNIT		PAPER NUMBER		
3721				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary****Application No.**

09/693,096

**Applicant(s)**

PHERO, NELSON

**Examiner**

THANH K. TRUONG

**Art Unit**

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**Period for Reply** -- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 9-11, 15 and 16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9-11, 15 and 16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C2)
- Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This action is in response to applicant's amendment received on March 28, 2008.
2. Applicant's cancellation of claims 1-8 and 12-14 is acknowledged.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 9-11, 15 and 16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The recitation "said plug having only one open end" is not supported by the disclosure and thus is a new matter. Figure 1 shows the pole (10) extended through plug (20) and on the third line from the bottom of the page 6, the specification stated "the pole (10) is inserted into spool (80) of wrapping material". Furthermore, there is no disclosure in the specification to mention that the plug having only one open end as recited in claims 9, 10 and 15.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 9-11, 15 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The recitation "said plug having only one open end" is vague and indefinite, because as mentioned above, there is no support in the specification for the claimed limitation as recited in claims 9, 10 and 15.

The recitation "via a first set of holes", as recited in claims 9, 10 and 15, is vague and indefinite, because it is unclear whether the holes is on the sleeve or on the pole?

7. Examiner's note: due to the indefiniteness of claims 9, 10 and 15, the claims is interpreted as best understood by the examiner.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 15 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Riemenschneider, III (4,535,951).

Riemenschneider discloses an apparatus comprising:

a pole (32);

a sleeve (34), disposed on the pole;

a plug (29 or 38) disposed on the pole;

a plate (21, 37 or 48) disposed on the pole, the pole disposed through the plate (Fig. 4 shows pole 32 clearly disposed on both sides of plate 21); and the sleeve (34) also has holes to receive pin (35) – figures 4 & 5), and holes (not number) at bottom of pole (32) to receive pin (35) along the pole (figure 5); and

a brake assembly (41, 39, 47, 46, 45, 48, 38, 42, 43, 44 & 40) disposed on the pole (the assembly (41, 39, 47, 46, 45, 48, 38, 42, 43, 44 & 40) provides a clamping force on the core holders and thus controls the rotation of the spool and therefore being construed as a brake assembly – column 4, lines 50-55); and

wherein the brake assembly communicates with the spool (12).

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Riemenschneider, III (4,535,951) in view of Wensman (5,520,360).

Riemenschneider discloses an apparatus comprising:

a pole (32);

a sleeve (34), disposed on the pole;

a plug (29 or 38) disposed on the pole;

a plate (21, 37 or 48) disposed on the pole, the pole disposed through the plate (Fig. 4 shows pole 32 clearly disposed on both sides of plate 21); and the sleeve (34)

also has holes to receive pin (35) – figures 4 & 5), and holes (not number) at bottom of pole (32) to receive pin (35) along the pole (figure 5); and

wherein the holes along the pole correspond to holes in the sleeve (hole at the bottom end of pole 32 correspond with hole on the side of sleeve (34) to receive the pin (35) - see figures 4 & 5).

Riemenschneider discloses the claimed invention, but it does not expressly disclose the second set of holes in the sleeve (as in claim 9) and the second set of holes along the pole (as in claim 10) arranged to receive a member perpendicular to the pole.

Wensman discloses an adjustable stand in which a pole (54) is slide within a sleeve (32) wherein the pole and the sleeve having a set of holes (68, 46 respectively) align to each other arranged to receive a member (48) perpendicular to the pole (Figs 1, 3 and 7). Wensman apparatus provides a means to adjust the length of the pole with respect to the sleeve.

Therefore, it would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to have modified Riemenschneider by incorporating the length adjustable pole as taught by Wensman so that the pole in Riemenschneider would be adjustable to accommodate plastic wrap spool of different sizes.

### ***Response to Arguments***

12. Applicant's arguments with respect to claims 9-11 have been considered but are moot in view of the new ground(s) of rejection.

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13. Applicant's arguments with respect to claims 15 and 16 have been fully considered but they are not persuasive.

In response to the Applicant's argument that:

*"In response, Applicant has amended the claims to read with further limitations such as that there is a straight linear pole; that there is a sleeve toward a first end of the pole via a first set of holes; that there is a plug toward a second end of the pole; that the plug only has one open end; that there is a plate toward a second end of the pole; that the pole is disposed through the plate so that the pole is on both sides of the plate; that there is a second set of holes in the sleeve arranged to receive a member perpendicular to the pole; that there is a second set of holes in the pole arranged to receive a member perpendicular to the pole; that the second set of holes along the pole correspond to the first set of holes in the sleeve; and that there is a brake assembly toward the first end of the pole. No new matter was entered. Such features are absent in Riemenschneider, III."*

this is not found persuasive, because as mentioned above in paragraph 9, it is construed that Riemenschneider clearly discloses the claimed invention as recited.

### **Conclusion**

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to THANH K. TRUONG whose telephone number is (571)272-4472. The examiner can normally be reached on Mon-Fri 9:00AM - 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

tkk  
June 26, 2008.

/Thanh K Truong/  
Primary Examiner, Art Unit 3721.